

The Research Express

Volume 2, Issue 5, July 2013

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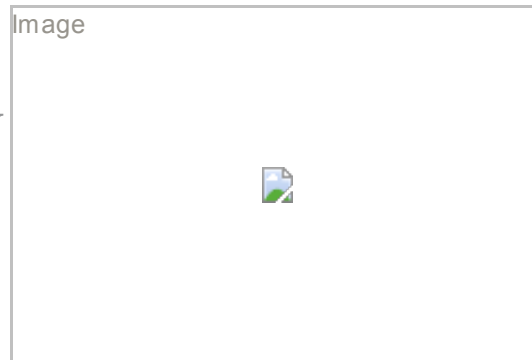
"The Research Express" (2013). *Research Express*. 5.
http://digitalcommons.georgiasouthern.edu/research_express/5

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Confidentiality Matters

by [Deann M. Baker, CHC, CCEP, CHRC](#)

Privacy and confidentiality matter to most people, particularly when it's our own information. According to the dictionary, privacy means the state of being free from intrusion or disturbance in one's private life; "having the right of privacy."

Confidentiality means that information and documents are limited to the persons authorized to use them because the data are classified to protect the owner's privacy. It's been said that privacy applies to the person, whereas confidentiality applies to the data. We all want entities and their employees to respect our privacy and maintain confidentiality when they use, maintain, or disclose the information that is about us.

The rules and behavior

Most industries must adhere to confidentiality laws and regulations that require written policies and ongoing training for their employees regarding expectations to safeguard the information they use, maintain, or disclose. Organizations and

individuals who fail to comply with those rules face tremendous financial penalties and consequences. Yet we still often hear of violations of confidentiality. There isn't one reason, nor is there a single solution, but there are a couple principles we can apply to influence behavior within our own organizations to help create a culture of confidentiality.

Reflections of our expectations

Many violations are a result of individuals becoming inattentive, not understanding the significance, or not remaining informed of their responsibilities. Our own expectations of how our personal information will be handled are: (1) The information will be used only for its intended business purpose; (2) The entity we share our information with has created policies and conducts ongoing training of its employees; (3) The employees of the entity will apply the safeguards communicated; (4) The entity conducts ongoing evaluation of the safeguards put in place to meet the requirements; and (5) We expect that if our information is not safeguarded and is used or disclosed inappropriately, we will be informed and the entity will address that risk.

Self evaluation

Every now and then it's a good practice to evaluate our own behavior and practices. Do you as an employee fulfill these same expectations you have for others who handle your information when you use, maintain, or disclose confidential information of others? Do you have two sets of standards that you live by, and if so, why?

Principles to live by

Two principles we should apply to help us influence and create a confidential culture are to be attentive and to be accountable. Being attentive means to be aware, evaluate, or to be thoughtful and listen. It's easy to become careless as we become comfortable in our roles, but it's important that we not allow ourselves to become lazy, to take shortcuts, or to not remain informed of current expectations through the policies and education communicated to us by the organizations we work for. We must also be accountable and responsible when we identify issues or have made an error in how we managed or completed an activity. It's important that we report issues promptly so that the designated individuals within the organization can take the necessary actions to minimize any potential risk or harm to customers and the organization. We can all help develop the right culture in our organizations by being attentive and accountable.

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Georgia Student Sues for Use of Facebook Photo in Educational Program

A former student of Starr's Mills High School is suing the school system for 2 million dollars over the use of a facebook photo without the student's or her parent's informed consent or permission. The photo was used in a district wide presentation designed to alert students to the risks associated with the use of social media. The photo of the student in her bikini was presented with the title "Once it's there, it's there to stay".

<http://dailycaller.com/2013/06/22/student-sues-school-district-for-2-million-over-facebook-bikini-photo/> [PDF Version](#)

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Fair Use Defined

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Notwithstanding the provisions of sections [106](#) and [106A](#), the fair use of a copyrighted work, including such use by reproduction in copies or phonorecords or by any other means specified by that section, for purposes such as criticism, comment, news reporting, teaching (including multiple copies for classroom use), scholarship, or research, is not an infringement of copyright. In determining whether the use made of a work in any particular case is a fair use the factors to be considered shall include:

(1) the purpose and character of the use, including whether such use is of a commercial nature or is for nonprofit educational purposes;

(2) the nature of the copyrighted work;

(3) the amount and substantiality of the portion used in relation to the copyrighted work as a whole; and

(4) the effect of the use upon the potential market for or value of the copyrighted work.

The fact that a work is unpublished shall not itself bar a finding of fair use if such finding is made upon consideration of all the above factors.

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ORI offers a sample license to use student work

The GSU Office of Research Integrity houses sample release documents faculty can use to assist in clarifying copyright usage for student work in scholarship, research and presentation.

- [Student photo release.](#)
- [License to use student work](#)

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In the News

http://news.cnet.com/8301-17852_3-57590606-71/student-sues-after-school-uses-facebook-bikini-pic-in-seminar/